

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

WILLIAM DIMERCURIO,

Plaintiff,

vs.

DEIDRE MALCOM,

Defendant.

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Case No.: 4:11-CV-01175

Courtroom 14N

MOTION TO CONTINUE TRIAL SETTING OF OCTOBER 15, 2012

COMES NOW Plaintiff, William DiMercurio, through undersigned counsel, and hereby requests a rescheduling of the October 15, 2012 trial date. In support of his motion, Plaintiff states as follows:

1. This case was set for trial on September 4, 2012.
2. On August 27, 2012, the Court issued an order, *sua sponte*, rescheduling the trial date to the week of October 15, 2012.
3. Undersigned counsel discussed the new trial date with his client, who advised that he is scheduled and has paid for overseas travel the week of October 15, 2012.
4. The Plaintiff will be traveling with at least one other witness included in the Plaintiff's list of identified witnesses.
5. This travel was bought, paid and planned over six months before the original trial date, and booked in consideration of the dates set forth in the Court's scheduling order. In fact, on page 40 of the February 20, 2012 deposition transcript of Plaintiff, he specifically refers to the aforementioned travel plans:

Q. Do you have any trips planned for this year?
A. I'm actually going back to Africa in October with my mother. She wants to go to Africa.

6. Thus, trial as scheduled for the week of October 15, 2012 will work an unnecessary and avoidable hardship on Plaintiff, and he asks that the Court reschedule the trial date accordingly.

7. To avoid conflicts with the attorneys in this case, as well as the potential and need for further requests to move the trial date, undersigned counsel consulted with counsel for the defendant, who advised that he is scheduled for trial in other matters during the following weeks:

- November: 5th and 26th (Plaintiff's counsel is also scheduled for trial in another matter on November 26, 2012);
- December 10th;
- January 7th; and
- February 18th & 25th.

WHEREFORE, Plaintiff, William DiMercurio, hereby requests the Court to enter an Order rescheduling the October 15, 2012 trial date, and for such further relief the Court deems just.

Respectfully submitted,

SEVASTIANOS & ASSOCIATES, PC

By: /s/ Noel A. Sevastianos
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CERTIFICATE OF SERVICE

Signature above also certifies that on September 12, 2012, the forgoing was filed electronically with the Clerk of Court to be served by operation of the Court's electronic filing system [CM/ECF system], which will send notification of such filing upon the following: attorneys for Defendant, Mr. Thomas J. Magee, Hepler Broom, LLC, One Metropolitan Square, 211 North Broadway, Suite 2700, St. Louis, MO 63102.